

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:

Application by SBC Communications, Inc.
Southwestern Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. d/b/a Southwestern Bell Long Distance
for Provision of In-Region InterLATA
Services in Oklahoma

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CC Docket No. 97-121

MCI TELECOMMUNICATIONS CORPORATION'S
RESPONSE TO THE ASSOCIATION FOR LOCAL
TELECOMMUNICATIONS SERVICES'
MOTION TO DISMISS AND REQUEST FOR SANCTIONS

In response to the Motion to Dismiss and Request for Sanctions of the Association for Local Telecommunications Services ("ALTS")¹, MCI Telecommunications Corporation ("MCI") agrees with ALTS that Southwestern Bell ("SWBT") improperly relies on Track B in its application for approval to provide in-region interLATA service in Oklahoma because competing providers have requested interconnection. Based on information provided by ALTS, it further appears that there is no residential service currently being provided by competitors in Oklahoma, thereby foreclosing the use of Track A. The requirements of Track A were fashioned by Congress to prevent in-region entry prior to the full implementation of the

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¹ The Commission's Public Notice, DA 97-864 (April 23, 1997).

competitive checklist and the provision of service to residential and business customers by facilities-based competitors. The Commission should grant ALTS' motion.²

With two exceptions not relevant here, Track B applies only if "no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application"³ The term "such provider" refers to the "unaffiliated competing providers of telephone exchange service" delineated in the first sentence of § 271(c)(1)(A). Indeed, the second sentence in section 271(c)(1)(A) refers to these providers as "such competing providers." It is undisputed that several competing providers of telephone exchange service requested access and interconnection in Oklahoma more than 3 months prior to SBC's application, or before January 11, 1997.

SWBT concedes in its application that several competing providers previously requested access. SWBT's application includes evidence of multiple providers who requested agreements prior to January 11, 1997.⁴ As a result, Track B is plainly inapplicable.

SWBT claims that Track B applies if no requesting provider has met all of the requirements of § 271(c)(1)(A) is inconsistent with the statutory language. Section 271(c)(1)(A) requires the existence of a predominantly facilities based provider of residential and business service to which the BOC is "providing access and interconnection" pursuant to "one or more binding agreements." If 271 exists to ensure local competition rules are implemented correctly,

² MCI will further elaborate on its analysis of Track A and Track B in its Comments on the above-captioned application on May 1, 1997.

³ § 271(c)(1)(B).

⁴ See SWBT 271 Application pp. 4-5 & n.3 and Appendix III.

SWBT's reading eviscerates the power of Track A to insure implementation. If Track B applies only when no provider meeting these requirements requests access and interconnection, then Track B would apply only when no facilities based provider *that already has an access and interconnection agreement* requests such an agreement. This is simply nonsensical.

SWBT's interpretation is also inconsistent with the purpose of the Act. Track A's requirements that checklist items be "provid[ed]" and "fully implemented" ensure that, at a minimum, the BOC has opened its bottleneck network to local competition before it may compete in downstream markets.⁵ Track B's requirements, in contrast, provide less assurance of the openness of the local market, and exist only to prevent a BOC from forever being held out of in-region long distance due to the absence of a request for an interconnection agreement.

Congress adopted the limited exception of Track B because it was concerned that potential competitors might "game" Track A by collectively deciding not to compete with a BOC for local business. Track B is triggered by proof of three specified acts by BOC competitors (failure to request access agreements; failure to negotiate in good faith; and failure to timely implement an agreement). SWBT has not alleged that any of the three specified conditions is present here. SWBT must therefore rely on Track A, although, as MCI has mentioned above, there appears to be no carrier that provides residential service in Oklahoma. MCI will further elaborate in its Comments on the above-captioned application on May 1, 1997 that SWBT has not satisfied the requirements of Track A, for these and other reasons.

⁵ §§ 271(c)(2)(B); 271(d)(3)(i).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary L. Brown", is written over a horizontal line.

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Susan Jin Davis

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DATED: April 28, 1997

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that the foregoing "REPLY COMMENTS OF MCI TELECOMMUNICATIONS" was served this 28th day of April, 1997, by hand delivery or first-class mail, postage prepaid, upon each of the following persons:

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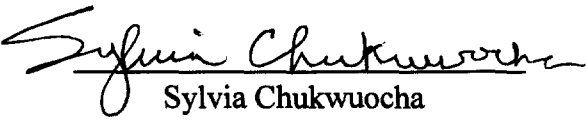
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